

117TH CONGRESS  
1ST SESSION

# S. 436

To provide Federal matching funding for State-level broadband programs.

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## IN THE SENATE OF THE UNITED STATES

FEBRUARY 24, 2021

Ms. COLLINS (for herself and Ms. ROSEN) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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# A BILL

To provide Federal matching funding for State-level broadband programs.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

**3 SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “American Broadband  
5 Buildout Act of 2021”.

**6 SEC. 2. DEFINITIONS.**

7       In this Act:

8           (1) ASSISTANT SECRETARY.—The term “Assist-  
9       ant Secretary” means the Assistant Secretary of  
10      Commerce for Communications and Information.

1                         (2) BROADBAND AVAILABILITY MAPS.—The  
2                         term “broadband availability maps” means the maps  
3                         created by the Federal Communications Commission  
4                         under section 802(c)(1) of the Communications Act  
5                         of 1934 (47 U.S.C. 642(c)(1)).

6                         (3) BROADBAND INTERNET ACCESS SERVICE.—

7                         The term “broadband internet access service”—

8                             (A) means mass-market retail service by  
9                         wire or radio that provides the capability to  
10                         transmit data to and receive data from all or  
11                         substantially all internet endpoints, including  
12                         any capabilities that are incidental to and en-  
13                         able the operation of the communications serv-  
14                         ice, but excluding dial-up internet access serv-  
15                         ice; and

16                             (B) includes any service that the Commis-  
17                         sion finds to be providing a functional equiva-  
18                         lent of the service described in subparagraph  
19                         (A) or that is used to evade the protections set  
20                         forth in part 8 of title 47, Code of Federal Reg-  
21                         ulations, or any successor thereto.

22                         (4) COMMISSION.—The term “Commission”  
23                         means the Federal Communications Commission.

24                         (5) ELIGIBLE ENTITY.—The term “eligible enti-  
25                         ty” means—

1                             (A) a State; or  
2                             (B) an entity authorized by a State to  
3                             spend funds for a purpose described in section  
4                             3 or 4.

5                             (6) LAST-MILE INFRASTRUCTURE.—The term  
6                             “last-mile infrastructure” means infrastructure the  
7                             predominant purpose of which is to provide  
8                             broadband internet access service to end users or  
9                             end user devices, including households, businesses,  
10                            community anchor institutions, public safety entities,  
11                            and critical community facilities.

12                            (7) OVERBUILDING.—

13                            (A) IN GENERAL.—Except as provided in  
14                             subparagraph (B), the term “overbuilding”  
15                             means deploying broadband infrastructure in an  
16                             area—

17                                 (i) that already has—  
18                                     (I) facilities capable of providing  
19                                     standard broadband service; or  
20                                     (II) broadband infrastructure  
21                                     that was built using funds from a  
22                                     Federal or State program that were  
23                                     provided for the express purpose of  
24                                     deploying broadband infrastructure;

- 1   (ii) where Federal or State funding  
 2   has already been committed for the deploy-  
 3   ment of facilities capable of providing  
 4   standard broadband service, even if such  
 5   service is not yet available, provided that  
 6   the funding recipient is meeting any appli-  
 7   cable buildout deadlines; or
- 8   (iii) with respect to which a broad-  
 9   band internet access service provider has  
 10    already made enforceable commitments to  
 11   a Federal agency or State to deploy facili-  
 12   ties capable of providing standard broad-  
 13   band service, even if such service is not yet  
 14   available, provided that the broadband  
 15   internet access service provider is meeting  
 16   any applicable buildout deadlines.
- 17   (B) INTERCONNECT POINTS.—The term  
 18   “overbuilding” does not include deploying  
 19   broadband infrastructure in an area described  
 20   in subparagraph (A) if the infrastructure is de-  
 21   ployed for the purpose of reaching interconnect  
 22   points of standard broadband service to meet  
 23   the needs of broadband users in another area  
 24   that is an unserved area.

1   (8) QUALIFYING PROJECT.—The term “quali-  
2 fying project” means a project—

3   (A) to construct last-mile infrastructure  
4   that will provide broadband internet access  
5   service at a speed of not less than 100 megabits  
6   per second for downloads and 10 megabits per  
7   second for uploads in an unserved area, without  
8   engaging in overbuilding; and

9   (B) that is funded by a public-private part-  
10   nership in which—

11   (i)(I) the State in which the project is  
12   located provides a portion of the funds; or

13   (II) the State in which the project is  
14   located and another entity, which may be  
15   a political subdivision of the State in which  
16   the project is located, together provide not  
17   less than 25 percent of the funds; and

18   (ii) the private company or electric co-  
19   operative that will provide broadband  
20   internet access service to customers con-  
21   nected to the last-mile infrastructure pro-  
22   vides not less than 25 percent of the funds.

23   (9) STANDARD BROADBAND SERVICE.—The  
24   term “standard broadband service” means broad-

1       band internet access service with a speed of not less  
2       than—

3                     (A) 25 megabits per second for downloads;

4                     and

5                     (B) 3 megabits per second for uploads.

6       (10) STATE.—The term “State” has the mean-  
7       ing given the term in section 3 of the Communica-  
8       tions Act of 1934 (47 U.S.C. 153).

9       (11) UNSERVED AREA.—The term “unserved  
10      area” means a census block in which standard  
11      broadband service is not available to all households  
12      according to—

13                     (A) the broadband availability maps; or

14                     (B) if the maps described in subparagraph

15                     (A) have not been completed at the time when  
16                  the relevant grant is being awarded, any exist-  
17                  ing broadband availability data of the Commis-  
18                  sion, as well as any relevant data from the Na-  
19                  tional Broadband Availability Map produced by  
20                  the Assistant Secretary.

21 **SEC. 3. LAST-MILE BROADBAND INFRASTRUCTURE.**

22       (a) GRANTS.—

23                     (1) IN GENERAL.—The Commission shall award  
24                  grants to eligible entities for qualifying projects.

1                         (2) ADVISORY ROLE OF NTIA.—The Commission  
2                         shall carry out paragraph (1) in consultation  
3                         with the Assistant Secretary, including by soliciting  
4                         and taking into account the advice of the Assistant  
5                         Secretary.

6                         (b) PRIORITIZATION.—The Commission shall give  
7                         priority to qualifying projects in States in which, accord-  
8                         ing to the broadband availability maps—

9                         (1) less than 68 percent of households subscribe  
10                         to fixed terrestrial broadband internet access service  
11                         with a speed of not less than—

12                         (A) 10 megabits per second for downloads;  
13                         and

14                         (B) 1 megabit per second for uploads; and  
15                         (2) less than 40.5 percent of households sub-  
16                         scribe to fixed terrestrial standard broadband serv-  
17                         ice.

18                         (c) HIGH-COST, GEOGRAPHICALLY CHALLENGED  
19                         AREAS.—The Commission shall ensure that not less than  
20                         15 percent of the amounts awarded under this section are  
21                         used in unserved areas that are high-cost and geographi-  
22                         cally challenged, as determined by the Commission.

23                         (d) POPULATION-BASED ALLOCATION.—

24                         (1) IN GENERAL.—In awarding grants under  
25                         this section, the Commission shall allocate not less

1 than \$5,000,000,000 among the States based on the  
2 proportion that the population of each State bears to  
3 the population of all States.

4 (2) EXCESS FUNDS.—If the amount allocated  
5 for a State under paragraph (1) exceeds the allow-  
6 able Federal share of the costs of projects of the  
7 State (or other eligible entity acting on behalf of the  
8 State) that are eligible for funding under this sec-  
9 tion, the Commission shall withhold the excess  
10 amount, which shall revert to the general fund of the  
11 Treasury.

12 (3) FAILURE TO APPLY.—If an eligible entity  
13 does not apply for a grant under this section by the  
14 last day of fiscal year 2022, the amount that would  
15 have been awarded to the eligible entity under para-  
16 graph (1) shall revert to the general fund of the  
17 Treasury.

18 **SEC. 4. PUBLIC AWARENESS CAMPAIGNS; DIGITAL LIT-  
19 ERACY PROGRAMS.**

20 The Commission shall award grants to eligible enti-  
21 ties—

22 (1) to carry out public awareness campaigns de-  
23 signed to highlight the value and benefits of  
24 broadband internet access service, in order to in-

1       crease the adoption of broadband internet access  
2       service; and

3                   (2) to support digital literacy programs in areas  
4       in which a qualifying project that receives funding  
5       under section 3 is located.

6 **SEC. 5. FEDERAL SHARE.**

7                   (a) IN GENERAL.—The Federal share of the cost of  
8       a project, campaign, or program that receives funding  
9       under this Act shall be not more than 50 percent.

10                  (b) USE OF CERTAIN FEDERAL FUNDS FOR NON-  
11       FEDERAL SHARE.—

12                  (1) IN GENERAL.—A State may use any  
13       amounts described in paragraph (2) for the non-  
14       Federal share of the cost of a project, campaign, or  
15       program that receives funding under this Act.

16                  (2) ELIGIBLE AMOUNTS.—The amounts re-  
17       ferred to in paragraph (1) are amounts received  
18       from—

19                   (A) the Secretary of Housing and Urban  
20       Development under the community development  
21       block grant program under title I of the Hous-  
22       ing and Community Development Act of 1974  
23       (42 U.S.C. 5301 et seq.);

- 1                         (B) the Appalachian Regional Commission  
2                         established under section 14301(a) of title 40,  
3                         United States Code;  
4                         (C) the Economic Development Adminis-  
5                         tration of the Department of Commerce;  
6                         (D) any rural telehealth program of the  
7                         Commission; or  
8                         (E) the Northern Border Regional Com-  
9                         mission established under section 15301(a)(3)  
10                         of title 40, United States Code.

11 **SEC. 6. TECHNOLOGY NEUTRALITY REQUIRED.**

12                 The Commission shall award grants to eligible enti-  
13 ties under this Act in a manner that does not favor the  
14 use of any particular technology.

15 **SEC. 7. TRANSPARENCY AND ACCOUNTABILITY.**

16                 (a) LAST-MILE BROADBAND INFRASTRUCTURE  
17 GRANTS.—For grants awarded under section 3, the Com-  
18 mission shall establish transparency and accountability  
19 rules under which—

20                         (1) after receiving an application for a grant to  
21 carry out a qualifying project in an area, the Com-  
22 mission shall determine whether the area is served  
23 or unserved using accurate and granular information  
24 regarding the availability of broadband internet ac-  
25 cess service at the sub-census block level;

1                         (2) the Commission shall—

2                             (A) permit a person or entity to challenge  
3                             an initial determination of the Commission  
4                             under paragraph (1); and

5                             (B) provide a period of not less than 45  
6                             days, after the Commission makes an initial de-  
7                             termination under paragraph (1) with respect  
8                             to an area, during which a provider of broad-  
9                             band internet access service may voluntarily  
10                            submit information concerning the broadband  
11                            internet access service that the provider offers  
12                            in the area;

13                         (3) the Commission shall provide the public  
14                            with notice of—

15                             (A) an initial determination with respect to  
16                             an area under paragraph (1);

17                             (B) the final determination of whether an  
18                             area is served or unserved after the process for  
19                             challenging the initial determination, as de-  
20                             scribed in paragraph (2), has concluded;

21                             (C) the entities that have applied for a  
22                             grant; and

23                             (D) the results of any decision regarding a  
24                             grant application, including by identifying—

- 1                                     (i) each eligible entity that was award-  
2                                     ed a grant;
- 3                                     (ii) the areas that each grantee will  
4                                     serve using the grant funds;
- 5                                     (iii) the nature of the service that  
6                                     each grantee will provide in each area de-  
7                                     scribed in clause (ii); and
- 8                                     (iv) the amount that the Commission  
9                                     has authorized each grantee to use to carry  
10                                  out a qualifying project in each unserved  
11                                  area; and
- 12                                 (4) the Commission shall establish—
- 13                                 (A) broadband buildout milestones and  
14                                 periodic certifications that a grantee must sub-  
15                                 mit to demonstrate compliance with the broad-  
16                                 band buildout milestones;
- 17                                 (B) a maximum buildout timeframe of 5  
18                                 years from the date on which the Commission  
19                                 first awards a grant to an eligible entity;
- 20                                 (C) requirements for grantees to submit to  
21                                 the Commission and to the broadband office or  
22                                 other applicable authority of the State in which  
23                                 the grantee is carrying out the project periodic  
24                                 reports that identify—

1                                     (i) the nature of the service provided  
2                                     in each unserved area; and

3                                     (ii) the latitude and longitude coordi-  
4                                     nates of each location to which the grantee  
5                                     has provided broadband internet access  
6                                     service in each census block;

7                                     (D) penalties for noncompliance with—

8                                     (i) the broadband buildout milestones  
9                                     under subparagraph (A);

10                                     (ii) the certification requirements  
11                                     under subparagraph (A); and

12                                     (iii) the reporting requirements under  
13                                     subparagraph (C);

14                                     (E) procedures through which the Commis-  
15                                     sion may recover grant funds, in whole or in  
16                                     part, from a grantee if the grantee defaults or  
17                                     does not comply with the requirements under  
18                                     this Act; and

19                                     (F) any additional methods or reporting  
20                                     necessary to reduce waste, fraud, and abuse  
21                                     within the grant program.

22                                     (b) PUBLIC AWARENESS AND DIGITAL LITERACY  
23 GRANTS.—For grants awarded under section 4, the Com-  
24 mission shall establish transparency and accountability  
25 rules that—

1                   (1) require the Commission to provide the pub-  
2                   lic with notice of—

3                         (A) the entities that have applied for a  
4                         grant; and

5                         (B) the results of any decision regarding a  
6                         grant application, including by—

7                             (i) identifying each eligible entity that  
8                         was awarded a grant;

9                             (ii) identifying the areas that each  
10                         grantee will serve using the grant funds;

11                             (iii) providing a summary of the  
12                         projects that each grantee will carry out in  
13                         each area described in clause (ii); and

14                             (iv) the amount that the Commission  
15                         has authorized a grantee to use to carry  
16                         out a public awareness campaign or sup-  
17                         port digital literacy programs in each area  
18                         described in clause (ii); and

19                         (2) establish—

20                             (A) project milestones and periodic certifi-  
21                         cations that a grantee must submit to dem-  
22                         onstrate compliance with the project milestones;

23                             (B) a maximum project completion time-  
24                         frame of 5 years from the date on which the

1           Commission first awards a grant to an eligible  
2       entity;

3           (C) periodic reporting requirements for  
4       grantees to demonstrate progress in meeting  
5       the project milestones under subparagraph (A);

6           (D) penalties for noncompliance with—

7               (i) the project milestones under sub-  
8       paragraph (A);

9               (ii) the certification requirements  
10      under subparagraph (A); and

11               (iii) the reporting requirements under  
12      subparagraph (C);

13           (E) procedures through which the Commis-  
14      sion may recover grant funds, in whole or in  
15      part, from a grantee if the grantee defaults or  
16      does not comply with the requirements under  
17      this Act; and

18           (F) any additional methods or reporting  
19      necessary to reduce waste, fraud, and abuse  
20      within the grant program.

21 **SEC. 8. AUTHORIZATION OF APPROPRIATIONS.**

22       There are authorized to be appropriated to the Com-  
23      mission to carry out this Act for fiscal year 2021,  
24      \$15,000,000,000, to remain available until expended.

